

CHAPTER 12

CONDITIONAL USE PERMITS

12.1 Applicability

There are some land uses which are basically in keeping with the intent and purpose of the district but which may have an impact on the area around them. These uses may be established, under certain conditions and with proper controls, in such a manner as to minimize any adverse effects. The uses for which conditional use permits are required are listed in the Table of Uses.

12.2 Application Process

- A. Submittal. Conditional use permit applications shall be submitted by the owner or an agent with permission granted by the owner. Following a required pre-application conference with the Administrator and a Project Review Team meeting with all departments, as determined necessary by the Administrator, the completed application shall be submitted at least 45 days prior to the Board of Commissioners meeting at which it is to be heard and shall include a site specific development plan prepared in accordance with Section 4.2(C) and proposed phasing, if any, and approximate completion time for the project. The Planning Department shall have 7 days from the date of submittal to notify the applicant that the application is complete. If the Planning Department determines the information is not sufficient for review, the Department shall notify the applicant of the specific information that is required for review. The applicant shall correct the identified deficiencies, and resubmit to the Planning Department within 7 days. Upon completion of the technical review, the Administrator shall prepare and forward the staff report, site plan, and any related application materials to the Board of Commissioners.
- B. Board of Commissioners. The Board of Commissioners shall hold a quasi-judicial public hearing and may not approve a conditional use permit request unless it first reaches each of the following findings based on competent, substantial, and material evidence presented at the hearing.
 - 1. The use will not materially endanger the public health or safety;
 - 2. The use meets all required conditions and specifications;
 - 3. The use will not substantially injure the value of adjoining property unless the use is a public necessity;
 - 4. The use will be in harmony with the surrounding area and compatible with the surrounding neighborhood; and
 - 5. The use will be in general conformity with the approved Moore County Land Use Plan.

- C. Additional Conditions: In accordance with NCGS 153A-340(c1), in approving an application, the Board of Commissioners may impose reasonable and appropriate conditions and safeguards to the approval which assure that the required findings are met. Conditions and safeguards imposed shall not include requirements for which the county does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the county, including, without limitation, taxes, impact fees, building design elements within the scope of subsection NCGS 153-340(l), driveway-related improvements in excess of those allowed in NCGS 136-18(29) and NCGS 160A-307, or other unauthorized limitations on the development or use of land. Design restrictions may still be imposed in compliance with NCGS 153A-340(l) and NCGS 160A-381(h), which allow design restrictions for commercial and multi-family development, in historic districts, or with the voluntary written consent from the property owners.
- D. Notification of Decision. Pursuant to NCGS 160A-388(e2), a quasi-judicial decision is effective upon filing the Board Order with the Clerk to the Board and shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, within 5 working days of the signed and filed Board Order.
- E. Minor Changes. Should the Administrator, Building Inspector, Department of Environmental Health, Public Safety, or Public Works, or NCDOT identify minor changes the Administrator shall be authorized to accept such minor modifications to site plan, as necessary. Such minor changes may include, but not be limited to, small site alterations such as realignment of streets and relocation of utility lines due to engineering necessity.
- F. Denial. There may be no subsequent application for the same or similar use submitted by any party for any part of the subject property until 12 months have elapsed from the date of denial.
- G. Expiration. The approved site specific development plan shall expire 2 years, or as otherwise vested per Section 14.3, from the date of approval.
- H. Revocation. In the event of failure to comply with the plans or any other conditions imposed upon the Conditional Use Permit, the Administrator shall give the permit holder 10 days written notice of intent to revoke the permit and request the permit holder to contact staff to set a reasonable time for the violation to be corrected. If the permit is revoked and the conditional use has not ceased, the use is considered a violation of this Ordinance and subject to enforcement and penalties.
- I. Appeals to Court. Quasi-judicial decisions shall be appealed to Superior Court pursuant to Section 2.1(B).

12.3 Notice of Public Hearings

- A. Mailed Notice. The Administrator shall notify by certified mail return receipt of the public hearings to the applicant(s), the owner of the parcel(s) owned per the most recent deed recorded in the Register of Deeds Office, and all property owners of abutting properties (as the last addresses listed in the County tax records) at least 10 but not more than 25 days prior to the date of each public hearing.
- B. Published Notice. Notice of the public hearings shall be published in a newspaper of general circulation once a week for 2 consecutive weeks prior to each public hearing.
- C. Posted Notice. A sign shall be posted not less than 10 days prior to each public hearing. The sign shall be posted on the property or at a point visible from the nearest road(s).
- D. Fort Bragg Notification. Conditional Use Permit requests located within 5 miles or less from the perimeter boundary of a military base shall be forwarded to the Regional Land Use Advisory Commission for review (NCGS 153A-323B) not less than 10 days or more than 25 days before the date fixed for the Board of Commissioners public hearing. Staff shall forward RLUAC's analysis regarding the compatibility of the proposed changes with military operations at the base to the Board of Commissioners.